

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>JAMIE EBERHARD,</b>	:	<b>CIVIL ACTION NO. 1:18-CV-536</b>
	:	
<b>Plaintiff</b>	:	<b>(Chief Judge Conner)</b>
	:	
<b>v.</b>	:	
	:	
<b>UNITED OF OMAHA LIFE</b>	:	
<b>INSURANCE COMPANY,</b>	:	
	:	
<b>Defendant</b>	:	

**ORDER & PARTIAL JUDGMENT**

AND NOW, this 17th day of June, 2019, upon consideration of the motion (Doc. 26) for judgment on the pleadings pursuant to Federal Rule of Civil Procedure 12(c) filed by defendant United of Omaha Life Insurance Company (“United”), in which United seeks judgment on the pleadings as to both of its counterclaims against plaintiff and counterclaim defendant Jamie Eberhard (“Eberhard”), and for the reasons set forth in the accompanying memorandum, it is hereby ORDERED that:

1. United’s motion (Doc. 26) for judgment on the pleadings is GRANTED in part and DENIED in part, as follows:
  - a. Judgment on the pleadings is GRANTED in United’s favor on the merits of its first counterclaim seeking declaratory relief insofar as United is entitled, pursuant to the relevant terms of the long-term disability insurance policy and Group Disability Benefits Reimbursement Agreement, to repayment by Eberhard of any overpayment of long-term disability benefits United made to Eberhard.

- b. Judgment on the pleadings is GRANTED in United's favor on the merits of its second counterclaim seeking an equitable lien by agreement pursuant to 29 U.S.C. § 1132(a)(3), the amount of which shall be the actual overpayment made to Eberhard and which has yet to be definitively determined.
  - c. Judgment on the pleadings is DENIED to the extent United asks the court to order reimbursement of a sum certain given that the actual overpayment amount has yet to be definitively determined.
- 2. It is ORDERED and DECLARED that, pursuant to the long-term disability insurance policy and Group Disability Benefits Reimbursement Agreement, Eberhard must repay United the actual amount of overpaid long-term disability benefits, which amount has yet to be determined.
  - 3. The Clerk of Court shall enter declaratory judgment in United's favor on its first counterclaim as more fully set forth in paragraphs 1(a) and 2 above and shall enter judgment in United's favor on its second counterclaim as more fully set forth in paragraph 1(b) above.
  - 4. This matter is referred to Chief Magistrate Judge Susan E. Schwab for assignment of a Settlement Officer pursuant to LOCAL RULE 16.9.

/S/ CHRISTOPHER C. CONNER  
Christopher C. Conner, Chief Judge  
United States District Court  
Middle District of Pennsylvania